

FILED

APR 29 2008

**Board of Vocational Nursing
and Psychiatric Technicians**

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8
9 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN-2006-1185

12 JOSEPH EUGENE GRAHAM
9920 19th Street #36
13 Alta Loma, CA 91737

A C C U S A T I O N

14 Vocational Nurse License No. VN 211480

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
20 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
21 Nursing and Psychiatric Technicians, Department of Consumer Affairs.
22 2. On or about October 13, 2004, the Board of Vocational Nursing and
23 Psychiatric Technicians, Department of Consumer Affairs issued Vocational Nurse License No.
24 VN 211480 to Joseph Eugene Graham ("Respondent"). The Vocational Nurse License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on August
26 31, 2008, unless renewed.

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1 6. Section 2878.8 of the Code states:

2 "The board may deny any application or may suspend or revoke any license issued
3 under this chapter [the Vocational Nursing Practice Act] based upon the denial of licensure,
4 suspension, restriction, or other disciplinary action of a license by another state, any other
5 government agency, or by another California health care professional licensing board. A
6 certified copy of the finding shall be conclusive evidence of that action provided that, if from
7 another state, the findings establish an act which if committed in California would be grounds for
8 discipline."

9 7. Section 2875 of the Business and Professions Code ("Code") provides, in
10 pertinent part, that the Board of Vocational Nursing and Psychiatric Technicians ("Board") may
11 discipline the holder of a vocational nurse license for any reason provided in Article 3
12 (commencing with section 2875) of the Vocational Nursing Practice Act.

13 8. Section 490 of the Code states:

14 "A board may suspend or revoke a license on the ground that the licensee has been
15 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
16 of the business or profession for which the license was issued. A conviction within the meaning
17 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
18 contendere. Any action which a board is permitted to take following the establishment of a
19 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
20 been affirmed on appeal, or when an order granting probation is made suspending the imposition
21 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
22 Penal Code."

23 9. Section 118, subdivision (b), of the Code provides that the suspension,
24 expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to
25 proceed with a disciplinary action during the period within which the license may be renewed,
26 restored, reissued or reinstated.

27 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
28 request the administrative law judge to direct a licensee found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 (Conviction of Substantially Related Crimes)

5 11. Respondent is subject to disciplinary action under Section 2878 (f) of the
6 Code in that he has been convicted of a crime substantially related to the qualifications, functions
7 and duties of a licensed vocational nurse. The circumstances are as follows:

8 12. On or about or about December 22, 2005, in Proceeding No. 05 AE-CR
9 04091-01 in the 6th Judicial Circuit Court of Platte County, Missouri, entitled "State of Missouri
10 v. Joseph E. Graham," following entry of a plea of "guilty." Respondent was found guilty and
11 convicted of driving while under the influence of alcohol-persistent offender (Felony D) in
12 violation of Code section 4741000, RSMO: 577.010.

13 Whereupon, Respondent was ordered into probation and parole for a term of four
14 (4) years, to include entry into and successful completion of an addiction program for substance
15 abuse, do not consume alcoholic beverage, operate vehicle only if legally and properly licensed
16 and insured, and with an installed ignition interlock device, submit to random blood, breath or
17 urine testing as directed, and other conditions.

18 (a) The circumstances of the foregoing conviction are that on July 9,
19 2005, on Interstate 29, near the location of 28 mile marker on Interstate 29, County of Platte,
20 State of Missouri, Respondent operated a motor vehicle while under the influence of alcohol.

21 (b) In a prior case, on or about May 13, 1996, Respondent had pleaded
22 guilty to the class D felony of driving while intoxicated for events occurring on or about
23 December 22, 1995 in the Circuit Court of Nodaway County.

24 (c) In a prior case, on or about July 27, 1997, Respondent had pleaded
25 guilty to the class D felony of driving while intoxicated for events occurring on or about
26 December 12, 1996, in Circuit Court of Ray County.

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1 convicted by guilty plea of driving while intoxicated and misdemeanor possession of a controlled
2 substance.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 (Conviction of a Drug or Alcohol Related Crime)

5 15. Respondent is subject to disciplinary action under section 2878(b) and 490
6 of the Code in that he has been convicted of drug or alcohol related crimes. The circumstances
7 are alleged as follows:

8 (A) The matters alleged in paragraphs 12, 12 (A), 12(c), 14(d), 14(e),
9 14(f) and 14(g) are incorporated by reference.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
13 Technicians, Department of Consumer Affairs issue a decision:

14 1. Revoking or suspending Vocational Nurse License No. VN 211480, issued
15 to Joseph Eugene Graham;

16 2. Ordering Joseph Eugene Graham to pay the Board of Vocational Nursing
17 and Psychiatric Technicians, Department of Consumer Affairs the reasonable costs of the
18 investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;

20 3. Taking such other and further action as deemed necessary and proper.

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22 DATED: April 29, 2008

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25 TERESA BELLO-JONES, J.D., M.S.N., R.N.
26 Executive Officer
27 Board of Vocational Nursing and Psychiatric Technicians
28 State of California
Complainant